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April 1, 1996

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: **CS Docket No. 96-46**

Dear Mr. Caton

Transmitted herewith on behalf of Golden Orange Broadcasting Co., Inc. are original and four (4) copies of its Comments in the above-referenced proceeding.

Very truly yours

Stanley S. Neustadt

Stanley S. Neustadt

Enclosures

cc: Larry Walke, Cable Service Bureau
International Transcription Service, Inc.

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BEFORE THE

Federal Communications Commission

In the Matter of	)	
	)	
Implementation of Section 302 of the Telecommunications Act of 1996	))	CS Docket No. 96-46
	)	
Open Video Systems	)	

COMMENTS OF GOLDEN ORANGE BROADCASTING CO., INC.

Golden Orange Broadcasting Co., Inc. ("Golden Orange"), the licensee of Television Broadcast Station KDOC-TV, Anaheim, California, by its attorneys, pursuant to §1.415 of the Commission's Rules, submits these Comments in response to the Notice of Proposed Rule Making released in the above-captioned matter on March 11, 1996.

Golden Orange agrees completely with the Commission's conclusion (see NPRM, ¶¶'s 15, 54) that the provisions of the new Telecommunications Act of 1996 (the "1996 Act") continue, and apply to Open Video Service (OVS), the statutory requirement that every subscriber is entitled to receive the programming of those "local" stations which choose to exercise their "must carry" rights. It appears that this is not a question which is still open or with respect to which comments are solicited.

Golden Orange has experience with the importance of the "must carry" system, Golden Orange has experience with the importance of the "must carry" system, having participated in a lengthy proceeding concerning enlargement of its ADI in order for it to acquire "must carry" rights, and the operation of its station both before and after that proceeding. Its participation in this rule making proceeding is limited to those matters which bear on "must carry" and on which it believes that it can provide helpful advice. But, whatever decisions the Commission may reach with respect to those matters, the statutory right to "must carry" must outweigh the technical and other considerations which may also be pertinent.

Golden Orange fully supports the Commission's tentative conclusion (NPRM, ¶19) not only that the "must carry" obligation applies to OVS operators regardless of the status of carriage demand and available capacity, but that fulfilling that obligation should not be counted against the one-third of capacity that an OVS operator or its affiliate may select. This is really the only efficient way to achieve the desired objective without wasting channels. (See discussion of channel sharing, below.) Otherwise, if there were a large number of "must carry" signals and a large number of program suppliers, and each program supplier had a separate channel for each "must carry", there would be an inordinate number of channels unnecessarily devoted to "must carry"-- *e.g.*, if there were ten "must carries" and three program suppliers, a total of thirty channels would be needed instead of ten. And, if the OVS served more than one ADI, any other procedure would be unfair to the OVS operator, because it would lose a channel for its own programming for "must carry" which each of the program suppliers for each ADI would not.

Golden Orange urges that, if the technology permits, all "must carry" signals should be transmitted on a single contiguous block of channels, by the program provider, or, if there are multiple program providers, by the OVS operator, assuring that whether there be one or several program providers, each subscriber will be assured of receiving the "must carry" channels. Although many subscribers would not receive those channels on the channels on which the "must carry" stations broadcast, attempting to reach the latter goal would be virtually impossible in the case of multiple program suppliers.On the other hand, subscribers would soon become accustomed to seeking retransmitted broadcast signals in one area of the dial, and such a system would tend to equalize the competition among broadcast stations, at least with respect to channel position (VHF-UHF). When and if this problem ever involves dealing with both digital and analog program suppliers, this matter might have to be reopened, if some broadcast signals are analog and others digital.

It is apparent that the approach described by Golden Orange will in most cases require channel sharing. Whatever results the Commission might reach with respect to channel sharing in other contexts (see NPRM ¶¶'s 36-40), compliance with the statutory provisions on "must carry" requires that, if technologically feasible, the "must carry" channels be shared among the program suppliers and the operator. Unlike the other fact situations described by the Commission in its discussion of channel sharing, "must carry" is not voluntary with the program suppliers. Even if channel sharing should be left to the discretion of the suppliers and the operator with respect to voluntary activities which they can engage in or not, they are forced to transmit the "must carry" signals, and they should be required to share those channels to avoid gross inefficiency.

Respectfully submitted
GOLDEN ORANGE BROADCASTING CO., INC.

By: Stanley S. Neustadt

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April 1, 1996